

REMARKS

Applicant thanks the Examiner for the careful consideration given to this application. Reconsideration is now respectfully requested in view of the amendment above and the following remarks.

Claims 1-20 are pending in this application. Claims 1, 5 and 17 are independent claims. Reconsideration and allowance of the present application are respectfully requested.

Claim Rejections under 35 U.S.C. §102

Claims 1-4 and 15-20 stand rejected under 35 U.S.C. §102(e) as being allegedly being anticipated by U.S. Patent No. 6,816,912 to Borella et al. (hereinafter “Borella et al.”). The rejections are respectfully traversed for at least the following reasons.

Under 35 U.S.C. §102 “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Accordingly, to anticipate any of Claims 1-9 and 11-27, Ziai must teach each and every element recited thereby. Borella fails to teach each of the recited elements of any of these claims -- and hence fails to anticipate any of these claims as a matter of law.

Independent Claim 1, in part, recites, *inter alia*, “a first bearer setup request generator associated with a first application-level entity, said first bearer setup request generator configured to generate a first application-level bearer setup request and to provide the first application-level bearer setup request to a transport-level entity, the first bearer setup request for requesting the selected bearer manager to create the bearer between the communication node and the correspondent node . . .” Borella does not teach or suggest these features.

The Office action argues Borella teaches such an apparatus of Claim 1 at column 11, line 6 through column 12, line 19. *See, 3/26/2010 Office action, par. 2.* Further, the Office action alleges the “foreign agent [as disclosed in Borella is] to be the claimed ‘first bearer setup request generator’” and “the tunneling server [as disclosed in Borella] to be the claimed transport-level entity,” *See, 3/26/2010 Office action, par. 4 (citing U.S. Pat. No. 6,816,912, col. 11, ll. 35-65).* Applicant traverses these assertions for at least the following reasons.

The cited passages of Borella relate to method 138 shown in Fig. 6 thereof. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 36-39.* Therein, a communications path between one or more foreign service applications on a foreign network and a tunnel server on the foreign network is provided at step 140. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 39-42.* At step 142, a registration request is received on a foreign agent on the foreign network from a mobile network device that has roamed to the foreign network. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 42-45.* At step 144, a unidirectional virtual tunnel is established from the tunnel server to the foreign agent. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 45-46.* After the virtual tunnel is established, data packets in Borella are tunneled at the tunnel server from one or more foreign service applications via the unidirectional virtual tunnel to the foreign agent. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 54-57.* The un-tunneled data packets are sent from the foreign agent to the mobile network device. *See, U.S. Pat. No. 6,816,912, col. 11, ll. 57-59.*

As set forth above, independent Claim 1 recites, *inter alia*, “**a first bearer setup request generator . . .** said first bearer setup request generator configured to generate a first application-level bearer setup request and to provide the first application-level bearer setup request to a **transport-level entity**, the first bearer setup request for requesting the selected **bearer manager to create the bearer between the communication node and the correspondent node . . .**” (*emphasis added*).

Even assuming *arguendo* one skilled in the art were to equate the Borella foreign agent to the recited first bearer setup request generator, and the Borella tunneling server to the recited transport-level entity, since the Borella tunneling server is the only entity that establishes any communication path, it (the Borella tunneling server) would then also need to equate to the claim 1 recited selected bearer manager. However, the Borella tunneling server cannot also equate to the recited selected bearer manager, at least by virtue that the Borella tunneling server does not establish a bearer between the **communication node** and the **mobile node**. Rather, the Borella tunneling server merely establishes a tunnel from the **tunneling server** to the **foreign agent** (which is alleged to equate to the first bearer setup request generator) *See, U.S. Pat. No. 6,816,912, col. 11, ll. 45-46.* Claim 1 does not call for the establishment of a bearer between a tunnel server and a foreign agent, but rather explicitly calls for, *inter alia*, “[a] bearer manager to create the bearer between the communication node and the correspondent node.”

Accordingly, Borella fails to teach or suggest “a first bearer setup request generator associated with a first application-level entity, said first bearer setup request generator configured to generate a first application-level bearer setup request and to provide the first application-level bearer setup request to a transport-level entity, the first bearer setup request for requesting the selected bearer manager to create the bearer between the communication node and the correspondent node,” as is recited in Claim 1.

Accordingly, Applicants respectfully request this rejection of Claim 1 under 35 U.S.C. §102 be withdrawn, at least by virtue that Borella fails to teach or suggest each of the features of the apparatus of Claim 1. Applicants also request reconsideration and removal of these rejections of Claims 2-4, 15, and 16 as well, at least by virtue of these claims’ ultimate dependency upon base Claim 1.

Turning to Claim 17, it analogously recites, *inter alia*, “selectably generating a first application-level bearer setup request at a first application-level entity, the first application-level bearer setup request for requesting the selected bearer manager to create the bearer between the communication node and the correspondent node . . .”

Accordingly, Applicants also request reconsideration and removal of the rejections of Claim 17 under 35 U.S.C. §102 for at least the foregoing reasons as well.

Applicant also requests reconsideration and removal of these rejections of Claims 18-20 as well, at least by virtue of these claims’ ultimate dependency upon base Claim 17.

Allowable Subject Matter

Applicants note with appreciation the Examiner’s indication that claims 5-14 are allowable over the prior art.

Disclaimer

Applicants may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

CONCLUSION

In view of the above, consideration and allowance are respectfully solicited.

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 27592-00425-US from which the undersigned is authorized to draw.

Dated: May 25, 2010

Respectfully submitted,

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